

REMARKS

N.B. Applicant does not understand the Examiner's refusal to "consider" the reference cited in the Information Disclosure Statement, as the concise explanation of relevance of this reference is set forth on page 1 of Applicant's specification. See MPEP §609 III A(3). Also, in the Information Disclosure Statement, it was expressly stated that the concise explanation of relevance appears in Applicant's specification at page 1. Thus, Applicant respectfully requests the Examiner to "consider" the reference and to **return an initialed copy** of the Form PTO-1449.

Applicant requests the Examiner to withdraw the objection to the drawings, in view of the enclosed replacement formal drawing sheet in which Fig. 1 has been labeled as "Prior Art".

With respect to paragraphs 3 and 4 on page 2 of the Office Action, the location of the insertion instructed in the Preliminary Amendment has been corrected to the proper location, and simultaneously overcomes the objection to the reference to claim 1 (which has been replaced by the text of claim 1).

Applicant respectfully traverses the rejection of claims 1 and 6 under 35 U.S.C. § 102(e) as being clearly anticipated by Hurtta '261, the rejection of claim 2 under 35 U.S.C. § 103(a) as being unpatentable (obvious) over Hurtta in view of Sakamoto '544, and the rejection of claims 3-5 under 35 U.S.C. § 103(a) as being unpatentable (obvious) over Hurtta in view of Read '527.

For a valid rejection based on anticipation, Hurtta must disclose, either expressly or inherently, each limitation of claims 1 and 6, or in other words, each of claims 1 and 6 must be

readable, either expressly or inherently, on Hurtta's disclosure. Applicant respectfully submits that clearly such is **not** the case here.

Applicant's invention is directed to a manner in which a **single** network element may be installed in two separate units, a manner which is very different from the teaching of Hurtta. The Examiner can easily see this difference simply by comparing Applicant's and Hurtta's drawings. Hurtta has **both** redundant matrices and **also** redundant interfaces. All incoming signals are copied to two input ports respectively connected to either of the two matrices. If one half fails, the other can fully take over the operation. It is, thus, merely a simple (prior art) 1:1 **redundancy** of the **entire** equipment, or, in other words, the **entire** network element is simply **doubled** to achieve equipment protection.

By **contrast**, in the present invention, Applicant does **not double** the network element but has **only one** or a "single" network element with redundant matrices but **without** redundant interfaces. Instead, the interfaces "are divided into two groups" and respectively assigned to either of the two matrix copies. The difference is that, if one half (e.g., the equipment in one room) fails, half of the traffic is lost - but half of the traffic is even preserved, and this is at no further costs, as no further equipment is needed (note: a crossconnect has redundant matrices anyway).

Moreover, Applicant's claimed invention allows the use of "short-range internal links", which are very cheap. This is **not** the case in Hurtta, because such short range internal links can be used only after the interface, i.e., between interface and matrix; this is because the interface has to terminate the long haul external links. If one were to follow the Examiner's assertion that it would have been "obvious" to install the two matrices and associated interfaces in two separate

rooms, then expensive external links would be required to externally connect the interfaces as shown in Hurtta's Figure 1. Thus, Hurtta does not disclose, either expressly or **inherently**, or even suggest internal links between the two units.

Thus, since Hurtta does not disclose, either expressly or inherently, all of the limitations of claims 1 and 6, Applicant respectfully submits that Hurtta is **incapable of anticipating** claims 1 and 6, whereby Applicant respectfully requests the Examiner to **reconsider and withdraw** the rejection of these claims, or else explicitly point out to Applicant the manner in which the Examiner feels that claims 1 and 6 are readable on Hurtta's disclosure, in view of the above analysis of the differences between Hurtta's disclosure and the "invention" of claims 1 and 6.

Applicant also respectfully challenges the propriety of the Examiner's assertion, "it is **obvious** that if there are two groups, then the two groups can be installed separately". There is no precedent for a test of **obviousness** in a rejection based on anticipation; the involved claim limitation must be either expressly or inherently **disclosed** in the reference, neither of which occurs in Hurtta's disclosure.

Because of the above-noted deficiencies in the disclosure of Hurtta with respect to independent claim 1, the rejection of dependent claim 2 under 35 U.S.C. § 103(a) also must fail, in that the Examiner has not made out a *prima facie* case of obviousness because, even if Sakamoto's "rack" were combined with the teaching of Hurtta, whose deficiencies are analyzed above, there would not be produced the subject matter of dependent claim 2 (2/1), taken as a whole, or subject matter which would have rendered claim 2 obvious.

The rejection of dependent claims 3-5 under 35 U.S.C. § 103(a) must fail for the same reason that the rejection of claim 2 fails. That is, even if the clock supplies of Read '527 were

combined with the teaching of Hurtt, there would not be produced the subject matter of any of dependent claims 3-5, or subject matter which would have rendered these claims obvious.

The Examiner also **objected** to claim 4. The Examiner's statement on page 7, second paragraph, is garbled and is unintelligible to Applicant. If the above amendment to claim 4 does not overcome the Examiner's intended ground in support of this objection, Applicant respectfully requests the Examiner to **call the undersigned attorney** to discuss the matter. The amended claim 4 (and also new claim 7) clearly recites a structural limitation (see specification page 5, lines 5-16) on the subject matter of its independent parent claim 1. (The "having" clause in claim 4 modifies and further defines "short-range optical links".)

In summary, then, Applicant respectfully requests the Examiner to: "consider " the reference cited in the IDS, and return to Applicant's undersigned attorney an **initialed** copy of the Form PTO-1449; withdraw the objection to the drawings; withdraw the objection to the disclosure; withdraw the objection to claim 4; withdraw the rejections of claims 1-6; and find the application to be in condition for allowance with all of claims 1-6, 7, 8 and 9. (New claim 7 is identical to claim 4 but dependent on claim 3 instead of claim 1. New claims 8 and 9 further restrict claim 1 and are supported in Applicant's specification at page 5, lines 17 and 18.)

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. APPLN. NO. 09/689,887

Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

Respectfully submitted,

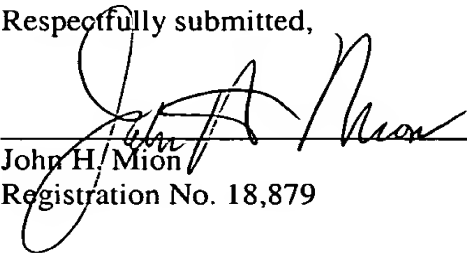
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